S.B. CIVIL WRIT PETITION NO.2942/2004

Yasho Dharm Mahila Mahavidhyalaya, Rajsamand.

Vs.

State of Rajasthan and others.

Date : 25.5.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. SN Trivedi, for the petitioner.

Mr. SP Sharma)
Mr. NR Goswami) for the respondents.
Mr. Rameshwar Dave, Dy.GA)

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Heard learned counsel for the parties.

The petitioner preferred this writ petition seeking prayer for cancellation of the No Objection Certificate granted vide order dated 9.7.2003 in favour of the respondent no.4 for the purpose of opening a new college at Rajsamand. The petitioner further sought relief of injunction that the respondent no.4 institution may not be permitted to open the college.

According to learned counsel for the petitioner, the No Objection Certificate (for short 'NOC') was issued by the State Government in favour of the petitioner for opening the college in Rajsamand vide Annex.2. It is also submitted that no permission can be granted for opening other college in the area in view of the guidelines available in the

master plan, copy of which is placed on record as Annex.3 and as mentioned in the instructions issued by the Director of Education, copy of which is placed on record as Annex.4.

According to learned counsel for the petitioner, the NOC in favour of the petitioner as well as the respondent no.4 is in force for the academic session 2004-2005. It is further submitted that the State Government is not giving NOC to the petitioner on the ground that the matter is sub-judice before this Court. Learned counsel for the petitioner submits that the enquiry about the respondent no.4 has already been completed and the report has been submitted and as per the information of the petitioner, that enquiry report fully justifies for not granting NOC to the respondent no.4.

Learned counsel for the respondent no.4 submits that there is no restriction for opening of the new college in the Rajsamand area. It is also submitted that the NOC issued to the respondent no.4 is in force upto the end of academic session 2004-2005. However, learned counsel for the respondent no.4 admits that the State Government has not issued any NOC for the next academic session 2005-2006 and NOC has not been issued to the petitioner also for this session.

Both the learned counsel for the parties submit that in view of the fact that the academic session 2004-2005 is about to come to an end and the matter for grant of NOC is

pending before the State Government, therefore, the State Government may be directed to take a decision on the applications of both the colleges and pass appropriate orders after considering the objections and submissions of the petitioner as well as the respondent no.4.

According, the State Government is directed to take a decision on the applications of both the colleges while taking into consideration all the relevant material which are necessary for deciding the applications for grant of NOC to the petitioner or respondent no.4 or both and the State Government shall decide whether they should take into consideration the enquiry report submitted about the working of the respondent no.4 and if the State Government decides not to take into consideration the said enquiry report, then a brief reasoned order may be passed for not considering the said inquiry report.

The petitioner as well as the respondent no.4 may submit their representations before the Commissioner, College Education, Rajasthan, Jaipur – respondent no.2 who will consider and decide, if competent, and if not, shall forward the said representations to the appropriate authority for taking the decision. The decision must be taken by 30.6.2005 necessarily before the start of next academic session.

Since there is no NOC in favour of the petitioner and the respondent no.4 for the next academic session 2005-2006, therefore, unless NOC is granted to the petitioner or

the respondent no.4 or both, they shall not give admission to any student.

In view of the above, this writ petition is partly allowed with directions as mentioned above.

Copy of the order be sent to the respondent no.2 - Commissioner, College Education, Rajasthan, Jaipur.

(PRAKASH TATIA), J.

S.Phophaliya